

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	20cv10769 (DLC)
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	<u>ORDER</u>
Plaintiff,	:	
	:	
-v-	:	
	:	
CHARLES SAMEL,	:	
	:	
Defendant.	:	
-----	X	

DENISE COTE, District Judge:

The Securities and Exchange Commission ("SEC") filed a complaint against Charles Samel ("Samel") on December 21, 2020 alleging one count of aiding and abetting violations of Sections 206(1) and (2) of the Advisors Act, 15 U.S.C. § 80(b)-6(1), (2). On March 12, 2021, Samel moved to dismiss the complaint. The motion became fully submitted on May 13.

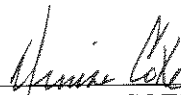
When deciding a motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6), Fed. R. Civ. P., a court "consider[s] the legal sufficiency of the complaint, taking its factual allegations to be true and drawing all reasonable inferences in the plaintiff's favor." Brooklyn Ctr. for Psychotherapy, Inc. v. Philadelphia Indem. Ins. Co., 955 F.3d 305, 310 (2d Cir. 2020) (citation omitted). "A complaint will survive a motion to dismiss so long as it contains sufficient factual matter to state a claim to relief that is plausible on

its face." Mandala v. NTT Data, Inc., 975 F.3d 202, 207 (2d Cir. 2020) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)). A plaintiff alleging fraud must "state with particularity the circumstances constituting fraud," but "[m]alice, intent, knowledge, and other conditions of a person's mind may be alleged generally." Fed. R. Civ. P. 9(b).

The complaint contains sufficient factual matter to support the SEC's claim that Samel aided and abetted violations of Sections 206(1) and (2) of the Advisors Act. Additionally, the SEC has met the heightened pleading standard set out in Fed. R. Civ. P. 9(b). Accordingly, it is hereby

ORDERED that Samel's motion to dismiss is denied.

Dated: New York, New York
May 26, 2021



DENISE COTE
United States District Judge